

## **The Rule of Law and Protection of Civilians**

**(Parliamentary South-East Asia Sub-regional Seminar**

**Kuala Lumpur, July 30<sup>th</sup>, 2015)**

**The honorable members of Parliaments, ladies and gentlemen. Good morning!**

It's a great pleasure for me to be here today with you all again. I would, first, like to thank Parliamentarians for Global Action (PGA) for offering me this wonderful opportunity to address you. I must also say if it weren't for PGA along with the other partners to pressure the Maldivian government, I wouldn't probably be here today. Thank you for swiftly reacting to my recent arbitrary arrest and jailing without trial for 25 days by Maldivian authorities, for partaking in a peaceful protest against the government brutality and injustices. My case will be prosecuted sooner than later, selectively and maliciously by the authorities.

As we are gathered here to discuss the rule of law and protection of civilians, I will focus on the importance of pre-conflict civilian protection systems taking the Maldives' situation as an example.

Perhaps my arrest and detention in violation of the rule of law looks trivial. However, as I speak to you today the first democratically elected president of the Maldives -Mohamed Nasheed – who sought safeguards for both domestic and international rule of law and protection of civilians by taking number of measures such as signing the Rome Statute of the International Criminal Court is now sentenced to 13 years in jail by the current regime on charges of terrorism - a trial widely condemned for being unjust and politically motivated. If such injustices

become commonplace in a country, my fear is that sooner than later, as history has shown, such a country would face serious consequences resulting in unrests and even civil wars where there will be complete disregard for the rule of law by all sides thus risking civilian safety utmost.

The honorable MPs, ladies and gentlemen...

As John Locke has said “wherever law ends, tyranny begins”. It is safe to say, in the Maldives, law has ended and tyranny has begun. The current regime of Yamin Abdul Qayyoom has sabotaged all the safeguards for the rule of law for his political advantage.

The Maldives may not become exactly as another Syria or Egypt or such like given its geographical nature and the small population of just about 350,000. However, the Maldives is sliding back to autocracy in an unstoppable manner. All opposition leaders are either locked up behind bars or forced to live in exile.

All of these acts by the government are arbitrary, unjust and in clear violation of due processes and the rule of law.

Former president Mohamed Nasheed’s case is well-known for its fatal flaws and political motivation behind it. Despite he being a former president of the country, police manhandled and dragged him into court with his arms in a sling, his clothes ripped and arm injured. His bail was denied throughout the case. He had limited legal representation, faced judges who personally gave evidence against him, barred from presenting a defense. His trial was conducted late at night for 19 days in a row until he was sentenced to 13 years in jail on his 21<sup>st</sup> wedding anniversary.

The courts attempted to frustrate any launching of both his bail and the case appeals.

Many believe Mr Nasheed's jailing is a desperate attempt by the government to remove the most popular political leader in the country from public sphere.

Amnesty International has characterized Mr Nasheed's jailing "a travesty of justice" and a "sham trial for political reasons". The UN High Commissioner for Human Rights called it "unfair" and "a rushed process that appears to contravene the Maldives' own laws and practices and international fair trial standards in many aspects". The UN Special Rapporteur for the Independence of Judges and Lawyers called Mr Nasheed's trial a "mockery" and a verdict "pre-determined". Moreover, all the biggest democratic governments as well as the European Parliament, European Union, among others, have all voiced concern over Mr Nasheed's trial and jailing and thus called for his freedom.

Cracking down on peaceful protesters by the police is a grave reality in the Maldives. Police in riot gear beat civilian protesters including women, children and the elderly with batons and boots. They also viciously use tear gas and pepper spray on peaceful protesters. The protesters then face jail for as long as a month without charge. The courts and the independent institutions keep endorsing all those human rights violations taking place in direct contravention of the domestic and international rule of law.

Amnesty International called this " a human rights crisis in the Maldives." And said, "without an end to - and accountability for – these human rights violations, any attempt at political reconciliation in the Maldives will be meaningless."

With regard to arbitrary arrests, attacks and harassment of opposition MPs, the Inter Parliamentary Union (IPU) on numerous occasions have expressed deep

concerns and called on the government to immediately investigate the cases and bring the culprits to justice. While this is the case in the Maldives, a member of Parliament, Dr Afrashim Ali was brutally murdered and another MP was fatally stabbed. Yet the government has shown unwillingness to bring the actual culprits to justice. Death threat text messages against opposition MPs also persist. But the government takes no action on that.

State-sponsored political and gang violence takes place in broad day light but the offenders enjoy complete impunity.

Attacks on free media and journalists is commonplace. Journalists have been attacked almost to death. Television stations have been totally burnt down. Although such perpetrators were caught on camera or solid evidence was available against them, the government did not take these atrocities seriously and the offenders went unpunished. Nearly a year on, another journalist Ahmed Rilwan of only 28 years of age has apparently been abducted. The UN, international human rights organizations and international media organizations have all called on the government to urgently and properly investigate Rilwan's case. But the government has shown unwillingness.

The independent institutions in the Maldives are either brought under the government's full control or are threatened and made toothless. In this regard, the Supreme Court, on its own initiative, summoned the national human rights watchdog and threatened them for a report they prepared to be presented to the UN Human Rights Council's Universal Periodic Review (UPR). Eventually, the Supreme Court obstructed the national human rights commission's constitutional duties. The same way, the court summoned the members of the Elections Commission and handed down suspended jail sentences on both the Chairman and the Vice Chairman of the commission thus their constitutional duties impeded.

In all these instances the UN and the international community have all severely condemned the Supreme Court's unconstitutional actions which are also in breach of international law. About the Supreme Court case against the Maldives' human rights watchdog, the UN Commissioner for Human Rights has raised serious concern and called it "yet another example of the judiciary undermining human rights protection in the Maldives."

The Maldives judiciary has often been used by the government to endorse all its human rights violations and injustices. All international organizations and the UN Special Rapporteur for the Independence of Judges and Lawyers, Gabriela Knaul, have often reiterated the longstanding concerns about the independence and impartiality of the judiciary in the Maldives.

The honorable MPs, ladies and gentlemen...

All of these real situations seem to be explaining the same thing: non-existence of the rule of law in a country; civilians' safety jeopardized under an institutionalized regime of systematic oppression.

Equality of all citizens under the law is a lynch-pin of the modern notion of the rule of law in a democratic state. Therefore, if a state actor or any civilian citizen offends they must equally face the consequences irrespective of who they are by a well-structured justice system. And in the absence of the rule of law impunity would certainly prevail.

When civilian victims come to a point where all hopes for justice and security for them are lost they become desperate and soon civil unrests boil over and go to the next level. This is something that we should be cautious of.

In order to protect civilians and uphold the rule of law, a legitimate governance to begin and take hold is central. Security institutions must be well-established. Professional, accountable and viable policing must be seen. Strengthened justice and prison systems are crucial. Independent institutions must be safeguarded from undue influence thus granting them political and operational autonomy. The system of checks and balances must effectively be in place. A viable civil society and free media are vital.

The honorable MPs, ladies and gentlemen...

In addition to strengthening national institutions, our countries should work together with international institutions. We do understand that gross human rights violations must be of an international concern. And those who have suffered grievous violations of human rights are entitled to redress, compensation and protection from further such injustices. The Rome Statute of the International Criminal Court (ICC) was created to serve this purpose. The Rome Statute builds upon the concept of State responsibility for human rights violations. It is not restricted to armed conflict. It deals with a wide range of crimes against humanity when they are gross and systematic and, when national courts are unable or unwilling to act.

The good news is that the last time when I met you my country -the Maldives - was not a signatory to the Rome Statute of the International Criminal Court. But today we are. And we have ratified the Statute as well. I'm glad I was convinced of

the importance of the ICC straight in the middle of a PGA conference. And on my return to Maldives' Parliament I voted in favor of the motion to join the ICC. That was in 2011 when Mr Nasheed, the man who led the struggle for democracy in the Maldives, was the president.

I would urge those countries, within our family, which haven't signed the Rome Statute as yet to do so. Because it is one of the very important safeguards.

While concluding I would like to say, ensuring civilian safety and upholding the rule of law in any part of the world should be in the interest of us all. We should also seek active international engagement in this. As Martin Luther King Jr has said, "injustice anywhere is a threat to justice everywhere." Sharing experiences and pooling resources among ourselves would help each other a great deal in establishing pre-conflict civilian protection systems such as institution building and become signatory to the Rome Statute. That way we are preventing or forestalling unrests or possible civil wars in our countries. And we must act fast. A stitch in time saves nine!

Thank you very much.

